

**San Antonio Railroad Company**, approved Sept. 5, 1850 : read first and second times and referred to the committee on Internal Improvements.

A message was received from the Goernor, transmitting the following communication:

*Gentlemen of the Senate*

*and House of Representatives :*

I transmit herewith a further report from the Commissioners to prepare a Code, amending, supplying, revising, digesting and arranging the laws, civil and criminal.

This report embraces "A Penal Code," preceded by a report of the Commissioners, explanatory of the changes which it makes in our present laws, and of the principles which guided them in its preparation.

I have given this Code a careful examination, and have no hesitation in recommending it for your adoption.

Two hundred copies of the report and Code have been printed, which are subject to the disposition of the two houses.

The revision of the General Statutes is now being published, and as soon as completed will be sent in.

E. M. PEASE.

On motion of Mr Taylor, of Cass, the communication was referred to the committee on the Judiciary.

On motion of Mr Weatherford, the Senate adjourned until to-morrow 10 A. M.

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FRIDAY, JANUARY 18th, 1856.

The Senate was called to order, by the President pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr Martin presented the petition of Mary Jackson; referred to the committee on public lands.

Also, the petition of Geo. Watts Walker; referred to the committee on private land claims no. 1.

On motion of Mr Lott, a joint resolution making an appropriation of \$5,548 70 to meet certain expenditures incurred by the penitentiary—was taken up, read and ordered to be engrossed.

On motion of Mr Martin, the rule was suspended, bill read third time and passed.

On motion of Mr Palmer, a bill for the relief of the Galveston and Red River Rail Road company, and supplementary to the several acts incorporating said company, was taken up and the amendments of the House, concurred in by the following vote :

YEAS.—Messrs. Allen, Armstrong, Bryan, Burroughs, Doane, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, Martin, May-erick, Palmer, Pirkey, Potter, Russell, Scarborough, Superwiele, Taylor of Cass, Weatherford, Whitaker, White, and Wren—24.

NAYS.—Mr Millican,—1.

Mr Martin, from the committee on State affairs, made the following report:

The committee on State affairs, to which was referred a bill for the relief of James M. Riggs, find that it is a compensation to the said Riggs for his services as District Clerk of the court in which the two cases of the State of Texas versus Charles F. Mercer, and the State of Texas, vs: Carrol and Mercer, were tried. From the evidence of the Attorney General, and other evidence before the committee of the most satisfactory character—I am therefore instructed to recommend the accompanying substitute and the passage of the bill.

On motion of Mr Martin, the rule was suspended, report taken up and the substitute adopted.

On motion of Mr Martin, the rule was further suspended. Bill read 2d time and ordered to be engrossed.

On motion of Mr Taylor, of Cass, A Bill to incorporate the city of Marshall was taken up.

On motion of Mr Taylor, the Senate concurred in the amendment of the House to the 4th section and refused to concur in the amendment to the 15th section.

Mr Allen introduced a Bill to amend the 7th section of "an act to provide for the payment of six companies of mounted volunteers that were mustered into the service of the State of Texas on the 1st day of November, A. D. 1854, under a requisition of Brevet Major General Persifer F. Smith, and to pay the expenses incurred by said companies, approved January 14, 1856. Read 1st time.

On motion of Mr Allen, the rule was suspended and Bill read second time.

On motion of Mr Grimes, the Bill was referred to the Committee on claims and accounts.

Mr Martin introduced a Bill concerning the School Lands of Navarro County. Read first and second times and referred to the committee on Public Lands.

Mr Hord, Chairman of the Committee on State Affairs, to which was referred a Bill to provide for the purchase of three hundred copies of the Texas Digest for the use of the State, reported the same back and recommended its passage.

Mr Russell from the committee on Engrossed Bills, reported as correctly engrossed, A Bill for the relief of James M Rigg,

and a joint resolution making an appropriation of \$5,548 to meet certain expenditures made for the Penitentiary.

Mr Allen, chairman of the committee on Enrolled Bills, reported correctly enrolled, properly signed, and this day presented to the Governor, A Bill to incorporate the Town of Linden, in Cass county, Texas; A Bill for the relief of E W Thomason, Win W Byas, Richard T Barnett and John O Clark: A Bill supplementary to an act to incorporate the town of La Grange, in the county of Fayette; and A Bill to establish and incorporate a Literary Institution, under the supervision and control of the Eastern Texas Annual Conference, located at or near the town of Gilmore, Upshur county.

#### ORDERS OF THE DAY.

Report of the committee on the Judiciary, on a Bill for the relief of the young men of Red River and Lamar counties, offering a substitute therefor; read

On motion of Mr Taylor, of Fannin, the substitute was laid on the table by the following vote:

YEAS—Messrs Allen, Burroughs, Caldwell, Grimes, McCulloch, Maverick, Millican, Pirkey, Russell, Scarborough, Taylor of Cass, Taylor, of Fannin, Weatherford, Whitaker and Wren. 15. NAYS—Messrs Armstrong, Bryan, Flanagan, Guinn, Hill, Lott, McDade, Palmer, Truit and White—10.

Mr White moved to lay the bill on the table, lost by the following vote:

YEAS—Messrs Bryan, Flanagan, Grimes, Guinn, Hill, Lott, McDade, Millican, Palmer and White—10.

NAYS—Messrs Allen, Armstrong, Caldwell, Maverick, Pirkey, Russel, Scarborough, Superviele, Taylor, of Cass, Taylor, of Fannin, Truit, Weatherford, Whitaker and Wren—14.

Mr Hill moved to amend the caption of the bill by adding Fayette, Austin and Colorado.

Mr Flanagan moved to amend the amendment by adding. "and that the county of Rusk be included in the benefits of this act." Lost.

Mr Hill's amendment was then adopted.

The Senate refused to engross the bill by the following vote:

YEAS—Messrs Allen, Armstrong, Caldwell, Martin, Pirkey, Russel, Scarborough, Taylor, of Cass, Taylor, of Fannin, Truit, Weatherford, Whitaker and Wren—13. NAYS—Messrs Bryan, Doane, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, McDade, Maverick, Millican, Palmer, Superviele and White, —14.

On motion of Mr Armstrong, the Senate concurred in the amendment of the House to a bill for the relief of Joab B Harrel, Sheriff of Williamson county.

The Report of the committee on the Judiciary on a Bill for the relief of the people of Navarro county, reporting a substitute therefor, was read and the substitute adopted.

Mr Taylor, of Fannin, moved to refer the Bill to the committee on Finance—lost. •

Mr Palmer offered the following amendment to come in at the end of the first section—"Provided that said taxes shall be applied first—to the erection of good and substantial public buildings, or to the payment for the same, if already erected, and not paid for, and afterwards to such general purposes as may be directed by the county courts of the respective counties.—Adopted.

The bill was then ordered to be engrossed by the following vote: YEAS—Messrs Armstrong, Bryan, Doane, Flanagan, Guinn, Hill, Lott, McCulloch, McDade, Martin, Maverick, Millican, Palmer, Pirkey, Potter, Taylor, of Cass, Truit and Weatherford—18. NAYS—Messrs Allen, Caldwell, Grimes, Russell, Taylor, of Houston, Whitaker, White and Wren—8.

Mr White offered the following resolution:

*Resolved*, That all the bills on the President's table concerning private relief, charters, &c., which can be disposed of without debate, be taken and finally disposed of, before bills which will be debated.

On motion of Mr White the rule was suspended, and the resolution adopted.

A bill for the relief of R. A. Powdrell; read third time, and passed.

A bill to change the name of Susan P. Cannon, to that of Susan P. Cook; read, and passed to a third reading.

On motion of Mr Guinn the rule was suspended, bill read third time, and passed.

A bill for the relief of Collin McKinney: read second time, and passed to a third reading.

On motion of Mr Allen the rule was suspended, bill read third time, and passed.

A bill to incorporate Walker Lodge No. 19, of the I. O. O. F., with the amendments offered by the committee on State affairs.

On motion of Mr Grimes the amendment was adopted.

The bill was then passed to a third reading.

On motion of Mr Grimes the rule was suspended, bill read third time, and passed by the following vote:

YEAS—Messrs. Allen, Armstrong, Burroughs, Caldwell, Doane, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, McDade, Maverick, Millican, Palmer, Pirkey, Russell, Taylor o Cass, Truit, Weatherford, Whitaker, and White—22.

NAYS—Mr Wren—1.

A bill to incorporate John M. Gibson Lodge No. 13, of I. O., O. F.; read, and passed to a third reading.

On motion of Mr Guinn the rule was suspended, bill read third time, and passed by the following vote :

YEAS—Messrs. Armstrong, Bran, Caldwell, Doane, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, McDade, Martin, Maverick, Millican, Palmer, Pirkey, Russell, Superviele, Taylor of Cass, Taylor of Pannin, Truit, Weatherford, Whitaker, and White—24.

NAYS—Mr Wren—1.

A bill for the relief of John A. Wells; read second time, and ordered to be engrossed.

On motion of Mr McCulloch the rule was suspended, bill read third time, and passed.

Report of the committee on the petition of Martin Crow, recommending its rejection; read, and adopted.

A bill for the relief of E. W. Moore; read third time, and passed.

A bill directing the payment of certain public debt certificates therein mentioned; read third time, and passed.

A bill for the relief of James Reason; read second time, and ordered to be engrossed.

On motion of Mr Hill the rule was suspended, bill read third time, and passed.

A bill for the relief of the heirs of William Watson, deceased; read second time, and ordered to be engrossed.

On motion of Mr Pirkey the rule was suspended, bill read third time, and passed.

Bill for the relief of the heirs of Samuel C. Stockbridge, deceased; read second time, and ordered to be engrossed.

On motion of Mr Hill the rule was suspended, bill read third time, and passed.

A bill for the relief of the heirs of Francis Mayher, deceased read second time, and ordered to be engrossed.

On motion of Mr Hill the rule was suspended, bill read third time, and passed.

A bill to authorize John C. Pettigrew and Margaret Pettigrew to adopt and name a certain child; read second time, and ordered to be engrossed.

On motion of Mr Armstrong the rule was suspended, bill read third time, and passed.

A bill for the relief of Thomas J. Rusk, and James H. Starr; read second time, and ordered to be engrossed.

On motion of Mr Whitaker the rule was suspended, bill read third time, and passed.

Report of the committee on Finance, on the petition of the citizens of Comal county; read, and on motion of Mr Guinn, laid on the table.

The report of the committee on public debt, on the petition of Randall Jones was read, and on motion of Mr Bryan laid on the table.

Report of the committee on private land claims No. 1, on the petition of Asa Dossett; read.

On motion of Mr Guinn the report and petition were re-referred to the committee on private land claims, No. 1.

A bill to incorporate the town of Texana; read first time.

On motion of Mr Taylor of Cass the rule was suspended, bill read second time, and passed to a third reading.

On motion of Mr White the rule was further suspended, bill read third time and passed.

A bill to incorporate the Henderson Female College; read first time.

On motion of Mr Flanagan the rule was suspended, and bill read second time.

On motion of Mr Potter the second section of the bill was amended by striking out the words "free from taxation." The bill was then passed to a third reading.

On motion of Mr Flanagan the rule was further suspended bill read third time, and passed by the following vote:

YEAS—Messrs. Allen, Bryan, Burroughs, Caldwell, Doane, Flanagan, Grimes, Guinn, Hill, Hord, Lott, McCulloch, McDade, Martin, Maverick, Millican, Palmer, Pirkey, Potter, Russell, Superviele, Taylor of Cass, Fruit, Weatherford, Whitaker, White, and Wren—27.

NAYS—Mr Armstrong—1.

A message was received from the Governor, transmitting the following communication:

EXECUTIVE OFFICE, }  
AUSTIN, Jan. 18th, 1856. }

*Gentlemen of the Senate,*

*and House of Representatives:*

I return herewith to the Senate, in which it originated, "an act amending and supplementary to an act amending and supplementary to an act to incorporate the Henderson and Burckville Rail Road." This charter was granted on the 10th day of February, 1852, and authorized the construction of a Railroad from the town of Henderson, in Rusk county, through Shelby and San Augustine counties to Burckville. The road was to be commenced within two years, and if not completed within five years, the charter was to be null. The company were to have eight sections of land for each mile of road constructed.

On the 27th of January, 1854, this charter was amended, and the company was authorized to construct its road, commencing on Galveston Bay or West side of Sabine Lake, thence running (not farther West of Sabine River on latitude  $31^{\circ}$  than fifty miles) through the town of Nacogdoches—then through the town of Mount Enterprise to the town of Henderson, in Rusk county, by such route as the company might deem most advisable.—The road was to be commenced within two years from the 27th of January, 1854, and twenty-five miles to be completed within three years. The powers granted by this charter are similar to those granted by all the other Railroad charters of the State, with the exception of that of the Mississippi and Pacific Rail Road. It contains no provision requiring the payment of any portion of its stock, previous to the organization of the company. So far as I am able to learn, no work has ever been done by this company, and I cannot learn that any part of its capital stock has ever been paid. It is certain that no part of its organization, or of its proceedings, capital stock, &c., has ever been made, as required by our General Railroad law.

This act now proposes to change the corporate name of the company, and to extend the provisions of an act to encourage the construction of Railroads in Texas, by donations of land, approved the 30th of January, 1854, and commonly called the sixteen section law, to this company for a period of one year from this time. It grants the company some other rights and privileges, but imposes no responsibilities or restriction upon the stock-holders, beyond what was contained in the original and amended charter, except that it requires all elections for officers of the company, to be held in this State.

The approval of this act must necessarily commit the State, at least during the continuance of the present Legislature, to an extension of similar relief to all the Railroad companies that have heretofore been chartered, whenever they may apply for it, although they have not paid in a dollar of their stock, nor done any work under their charter, and will most likely lead to the grant of new charters of a like character to those heretofore granted.

It is now generally admitted throughout the State, that our past legislation, in regard to Railway charters, has been hasty and imperfect. They have been granted to individuals for their own benefit, with large and undefined privileges and powers, without imposing any responsibility whatever upon the stockholders, and have, in many instances, been used by the corporators for purposes of private speculation, without any regard to the wants and interests of those sections of the State

they were ostensibly intended to benefit. What has heretofore been done under charters with powers and privileges like this, may continue to be done, and it is our duty to remedy this evil, as far as it can be done.

I think the public interests demands a reform in our legislation in regard to Railroad charters. If those who apply for them are unable, or unwilling, to subscribe and pay for stock, they have no just claim for them, and it is an idle and useless business to grant them. The time has arrived when we should adopt a sound and healthy system in regard to corporations. Their powers and privileges should be limited and accurately defined. They should no longer be allowed to organize without capital; such restrictions and responsibilities should be imposed on the stockholders as will protect the rights of the public, and guard individuals dealing with them from imposition.

In a communication sent to you, at an early period of your session, I stated that I was unwilling that any new charters should be granted to individuals for their own benefit. If new charters were necessary, such routes should be selected as the wants and business of the country require; their points of commencement and termination should be designated, and charters should be granted to Commissioners, who should be required to open books for the subscription of stock, after giving public notice. No subscription should be received, unless five per cent thereof was paid at the time of subscribing, and whenever the per centage on the capital stock subscribed should amount to one hundred thousand dollars, the Commissioners should be authorised to call a meeting of the subscribers, and hold an election for officers; after which the subscribers should become a corporation, with all such powers as are set forth in the charter. The Commissioners should have no right under the charter, except as Trustees for the benefit of their subscribers, when they organize and become a corporation, and should be liable to a heavy penalty for receiving subscriptions of stock, without the payment of five per cent thereof in cash. The corporation thus organized should have authority, from time to time, to receive further subscriptions to its capital stock, to the full amount thereof, after giving public notice—the subscribers in all cases paying five per cent of their stock at the time of subscribing.

I have seen no reasons to change these opinions. On the contrary, subsequent reflection has greatly strengthened them, and they apply with equal force to the extension of the charters of those companies which have not commenced work, and exhibit no evidence showing that they have any capital stock subscribed and paid in.



The restrictions here proposed are by no means onerous, and it is very certain that a company which cannot command at least one hundred thousand dollars to commence with can never obtain credit, or build a Railroad of the length contemplated by this charter.

These considerations have induced me to withhold my approval from this Act, and to return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr Lott, the consideration of the communication was postponed until Wednesday, the 23d inst.

On motion of Mr Taylor, of Cass, the Senate adjourned until 10 o'clock to-morrow morning.

SATURDAY, January 19th, 1856.

The Senate was called to order by the President pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

Mr Palmer presented the petition of Patrick Dunn—referred to the committee on private land claims no. 1.

Mr Bryan presented the petition of N Churchill—referred to the committee on private land claims no. 2.

Mr Hill presented the memorial of the President and Trustees of Rutgersville College, praying for a law prohibiting the sale of ardent spirits in certain limits—referred to the committee on State Affairs.

Also the memorial of the President of Rutgersville College, for an appropriation for the establishment of a Female University—referred to the committee on education.

Mr Bryan, chairman of the committee on education, to which was referred the petition of certain citizens of Fort Bend county, reported the following bill, recommending its passage.

A bill to incorporate the Frost Institute—read first time.

Mr Pirkey, from the committee on public lands, submitted the following report:

The committee on public lands, to which was referred the petition of sundry citizens of Grayson county, have had the same under consideration. It appears that J P Dumas, who was twice elected District Surveyor of said county, executed his bonds payable to the Chief Justice in the penalty of one thousand dollars instead of the Governor of to the State of Texas in the penal sum of ten thousand dollars.

He was sworn into office and made a number of surveys—it does not appear whether these conflict with surveys previously or subsequently made—the committee are of opinion that